

Attorney Docket No.: J3652(C)  
Serial No.: 10/506,373  
Filed: February 7, 2005  
Confirmation No.: 1188

### REMARKS

By this Amendment, applicants have incorporated claim 10, now cancelled, into claim 1. This amendment is to emphasize that the droplets of the invention are separately formed, discrete droplets into which functionalized silicone and hydrocarbon oil are intimately blended in a manner that would not naturally occur by simple mixing of these components with other ingredients in a generally formed composition. Specifically, amended claim 1 now recites that discrete droplets of the invention are added as the non-aqueous phase of a pre-formed aqueous emulsion. This is also clearly supported by Examples A & B in Table 1 where pre-emulsified blends of mineral oil and aminosilicone are used as examples of the invention.

None of the references cited by the Examiner disclose use of intimately blended, functionalized silicone and hydrocarbon oil added as the non-aqueous phase of a preformed aqueous emulsion.

U.S. Patent No. 5,346,642 to Patel et al., for example, is cited under 35 USC §102(b). The Examiner notes that Patel discloses hair conditioning shampoo comprising aminosilicone and mineral oil among other components. With regard to these being found in the same droplet, the Examiner states only that, as it is known that oil and water components do not mix, the hydrophobic components (i.e., presumably, aminosilicone and hydrocarbon oil) will "cling together" in an aqueous environment.

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The potential "clinging" of hydrophobic components in a general aqueous environment is simply not the same as pre-formation of a separately prepared and separately added emulsion (i.e., where aminosilicone and oil are blended and added as non-aqueous phase of such pre-formed aqueous emulsion), as recited in the amended claims. There is simply no teaching or suggestion that such components would come together to form the type of intimate blend obtained from our pre-formed emulsion.

Indeed, in the Patel patent it is specifically disclosed that lipophilic components (presumably not including aminosilicone) and hydrophilic components are separately mixed and that aminosilicone, when present (i.e., the criticality of aminosilicone is not even recognized), is "admixed" with other components. Clearly, the pre-formed emulsion of our invention is not formed.

The same is equally true with regard to each of the following references rejected under 35 USC §102(b):

- (1) U.S. Publication No. 2005/0091763 to Inoue et al.;
- (2) U.S. Patent No. 5,968,492 to Noguchi et al.;
- (3) U.S. Patent No. 6,048,519 to Hiraishi et al.;
- (4) U.S. Patent No. 6,143,286 to Bhambhani et al.;
- (5) U.S. Patent No. 6,165,455 to Torgerson et al.;
- (6) U.S. Patent No. 6,190,643 to Kouzo et al.; and
- (7) U.S. Patent No. 6,432,420 to Ellis et al.

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That is, at best, each of these references disclose general compositions which comprise, among many other components, functionalized silicone (e.g., aminosilicone) and hydrocarbon oil.

None of the compositions, however, disclose compositions where droplets comprising these two components are added to the compositions as the non-aqueous phase of pre-formed aqueous emulsion.

Further, applicants note, when such pre-formed emulsion blends are added to compositions (see Table 1 at page 29, Examples A and B versus Comparative Examples 1 and 2), they demonstrate enhanced "ease of comb" and "clean feel" (see Tables 2 and 3 at page 30).

In view of the amendments and discussions above, it is respectfully requested that the Examiner withdraw all rejections of the claims now pending (i.e., claims 1-9 and 11-16) and that claims, as amended, be allowed.

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If a telephone conversation would be of assistance in advancing prosecution of the subject application, applicants' undersigned agent invites the Examiner to telephone him at the number provided.

Respectfully submitted,

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